

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL NO. 3:10CV529-GCM

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
APPROXIMATELY \$188,934.50 IN)
UNITED STATES FUNDS,)
)
Defendant.)

**ORDER AND
JUDGMENT OF FORFEITURE
(BY CONSENT)**

THIS MATTER is before the Court on the government's motion to lift the stay and for a consent judgment of forfeiture against a portion of the defendant property (Doc. No. 6).

THE COURT FINDS THAT:

1. A verified complaint for forfeiture in rem of the defendant property was filed on October 21, 2010. The Clerk issued a warrant for arrest in rem on October 22, 2010.
2. Process was fully issued in this action and returned according to law. Pursuant to the warrant for arrest in rem, as shown by the process receipt and return filed herein on November 24, 2010, the defendant property was deposited into a government suspense account. Service of process was made by internet publication of notice, as shown by the government's declaration filed on November 26, 2010.
3. Notice was served on Esel Jay Oh and The U.S. Trade, Inc., dba US Trading, Inc. (collectively, "claimants"), through counsel.
4. By consent of the government and claimants, this Court stayed this civil case on November 4, 2010, without prejudice to claimants' rights to file a claim and other pleadings or motions.
5. On July 21, 2011, Claimant Oh was indicted in a related criminal case, No. 3:11CR233-MOC. In a plea agreement filed on August 7, 2011, he agreed to file all tax returns, pay all taxes due, and forfeit \$60,000.00 of the defendant property herein, with the remaining \$128,934.50 to be returned to defendant and held in his attorney's trust account. He entered his plea of guilty the same date.
6. Based on the affidavit of United States Secret Service Agent Josh Zaukus,

filed with the complaint, the government has shown probable cause to believe that the defendant property is proceeds of and/or was used or intended to be used to facilitate structuring of currency deposits in violation of 31 U.S.C. § 5324(a) and that it is therefore subject to forfeiture under 31 U.S.C. § 5317(c)(2).

7. The parties have agreed to settlement of all forfeiture matters in accordance with the plea agreement and the affidavit, waiver and consent form (the "consent form") submitted with this motion. The Court deems the consent form to be substantially equivalent to a claim and an answer duly filed by each claimant. No other person has filed a claim herein within the time permitted by law.

8. As provided in the plea agreement and the consent form, the government and claimants have agreed to the forfeiture of \$60,000.00 of the defendant property and the release of the remainder to claimants' attorney's trust account.

BASED ON THE FOREGOING FINDINGS, THE COURT CONCLUDES that the government is entitled to a judgment of forfeiture by consent against \$60,000.00 the defendant property.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The government's motion to lift the stay and for a judgment of forfeiture as to \$60,000.00 is hereby GRANTED.

2. Any and all right, title and interest of all persons in the world in or to the following property is hereby forfeited to the United States; and no other right, title, or interest shall exist therein: approximately \$60,000.00 in United States funds.

3. The United States is hereby directed to dispose of the forfeited defendant property as provided by law and to release the remaining \$128,934.50 of the defendant property to Attorney Eben Rawls, counsel for claimants, in accordance with the settlement of the parties.

Signed: November 4, 2011



Graham C. Mullen
United States District Judge

